

PERMIT REQUIREMENTS FOR DEVELOPMENT
OF
ENERGY AND OTHER SELECTED NATURAL RESOURCES
FOR THE
STATE OF IDAHO

PREPARED FOR
PACIFIC NORTHWEST REGIONAL COMMISSION
AND THE
U.S. GEOLOGICAL SURVEY

BY THE DEARBORN ASSOCIATES, INC.

Statements of opinion and/or recommendations are those of the authors and do not necessarily reflect the official opinion of the Pacific Northwest Regional Commission or the U.S. Geological Survey.

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The statements contained in the Guide do not necessarily reflect the views of the Pacific Northwest Regional Commission. This report is the result of tax-supported research and may be reprinted in part or whole with the customary crediting of the source.

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State Capitol Building
Boise, Idaho 83720

U.S. Geological Survey
Environmental Affairs Office
760 National Center
Reston, Virginia 22092

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760 National Center
Reston, Virginia 22092

(703) 860-7455

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SECTION 1.0
INTRODUCTION

1.0 INTRODUCTION

This guidebook is one of a series prepared for every State. The purpose of the guidebook is to summarize environmental and land-use permits issued by the State for the development of energy and other natural resources. The guidebook is intended not only for private developers and interest groups, but also for regulatory officials of Federal, State, and local government as well.

All State agencies having jurisdiction over the permits, licenses, and approvals described in this guidebook helped to prepare it, and they reviewed the final draft of each summary for accuracy and completeness. Users of this guidebook should be aware, however, that changes in the laws, rules and regulations, or regulatory personnel since the guidebook was published may cause significant changes in permit requirements.

The guidebook should not be construed as a legal document or a final authority on permits for the State of Idaho: it is not intended to be a comprehensive reference to the specific requirements of each permit, but to provide concise, easy-to-use information on the State regulations that govern the development of such resources. Before attempting to obtain a permit or begin any activity that might require a permit, you should contact the appropriate State agency for further details.

The guidebook is divided into seven sections. Sections 1, 2, and 7 discuss introductory information, consolidated permit programs for the State of Idaho, and local regulatory policies, respectively. The remaining sections discuss permits that apply to Resource Extraction, Land Use Regulation, Environmental Quality Management, and Social/Ecological Preservation. Each section is divided into chapters; each chapter summarizes one permit, license, or approval. Permits administered by a single agency are generally grouped together in each section.

Each permit is discussed in the standard format shown on the next page.

STANDARD FORMAT FOR PERMIT SUMMARY

CHAPTER

TITLE OF ACTIVITY ADDRESSED BY PERMIT, LICENSE OR APPROVAL

INTRODUCTION

Description of administering agency and its role.

A. NAME OF PERMIT OR APPROVAL

Complete name of permit or approval.

B. STATUTORY AUTHORITY

Title of state statute(s) authorizing permit and appropriate legal citation.

C. TITLE OF REGULATION

Title of state regulation(s) which apply to permit.

D. SUMMARY OF PERMIT/APPROVAL PROCESS

Summary of major steps involved in the permit/approval process.

1. APPLICABILITY

Includes all types of activities which require the permit.

2. GENERAL REQUIREMENTS

Conditions which must be met by the project sponsor before a permit can be acquired; does not include Submission or Operation Requirements.

3. SUBMISSION REQUIREMENTS

Types of information which the project sponsor must include in the application for the permit.

4. PROCEDURES FOR OBTAINING PERMIT OR APPROVAL

Includes information on items such as submittal procedures, departmental review investigation, public notification/hearing, preliminary and final decisions, inspections, and processing times.

5. OPERATIONS REQUIREMENTS

Conditions which are established by the regulatory agency following permit approval and which must be met by the project sponsor in order to continue operations.

6. FEES

Costs incurred for obtaining and maintaining the permit.

7. APPEAL PROCESS

Process whereby decisions concerning permit approval/denial that are made by a regulatory agency can be appealed.

E. ADMINISTERING AGENCY

Name, address, and telephone number of the administering agency.

If applicable, the name, address, and telephone number of the counterpart Federal agency.

SECTION 2.0
STATE POLICY AND PROCEDURES
FOR CONSOLIDATED PERMIT PROGRAM

CHAPTER 2.1 STATE CLEARINGHOUSE

INTRODUCTION

The Division of Economic and Community Affairs has been designated by the legislature as the central information center for all State agencies requesting Federal assistance. As such, the Division serves as the State Clearinghouse for A-95 review.

A. NAME OF PROGRAM

State Clearinghouse.

B. AUTHORIZING STATUTE

State Government and State Affairs, I.C. Title 67, Chapter 47.

C. TITLE OF PROGRAM

A-95 Clearinghouse System.

D. SUMMARY OF PROGRAM

I. APPLICABILITY

State or local agencies, organizations or individuals applying for Federal funds from any source listed in the Catalogue of Federal Domestic Assistance, or its quarterly supplement, must notify their local clearinghouse and submit a project application for an A-95 review before funding. The clearinghouse system works on two levels: Statewide and Areawide. All applications are first sent to the State Clearinghouse. If the proposed project has potential impact in an area, it is sent to that particular areawide clearinghouse. Six regional and one metropolitan clearinghouses review those applications sent from the State Clearinghouse for conformance to regional plans. The areawide clearinghouses then distribute applications to appropriate agencies for review and comment. If the project has potential statewide impact, it is sent to all areawide clearinghouses.

Reviewers are also determined by the functional nature of the grant; i.e., if the project has potential environmental impact, it could be sent to the Water Resources Division, the Department of Lands, etc. The Division of

Economic and Community Affairs maintains a computer listing of the status of all project applications.

2. GENERAL REQUIREMENTS

The A-95 review process is designed to allow State and local governments to comment on projects within their geographical and functional area and to assure consistency with State and local policies and comprehensive plans. Federal grants requiring preparation of a State plan must be sent to the State Clearinghouse to assure compatibility with other State plans and programs. These plans must be reviewed and signed off by the governor or the governor's designee.

3. SUBMISSION REQUIREMENTS

Applicant prepares an A-95 "Notice of Intent Form" (S.F. 424) and a State Notification and Review Form, containing a brief description of the project, amount of funds requested, area immediately affected by the project, and Environmental Impact Statement requirements, if any.

4. PROCEDURES

- a. Application: Form and description need to be submitted to the State Clearinghouse.
- b. Processing: The clearinghouse distributes copies of the application or notice of intent to appropriate agencies. The clearinghouse has 30 days from receipt of a notice to complete its review, with the possibility of an extension. If applicant submits a completed project application, review period is 60 days. The clearinghouse staff receives the project comments from reviewer agencies, and sends the applicant a sign-off letter which summarizes comments by the agencies involved. The sign-off also provides the applicant with the necessary documentation verifying that the applicant has complied with the A-95 requirement.

E. ADMINISTERING AGENCY

Division of Economic and Community Affairs
Clearinghouse Coordinator
Hall of Mirrors
2nd Floor W.
Statehouse Mail
Boise, ID 83720

(208) 334-3416

SECTION 3.0
RESOURCE EXTRACTION

CHAPTER 3.1 ENERGY RESOURCES
3.1.1 GEOTHERMAL RESOURCE LEASING

INTRODUCTION

The Board of Land Commissioners, through the Department of Lands, regulates leasing of geothermal resources on State and school lands. All leaseholders must comply with the Department of Water Resources' laws and regulations regarding appropriation of public waters, and obtain a drilling permit from that department.

Certain State lands can be designated as being within a known Geothermal Resources Area (KGRA); leases for these lands are issued on a competitive bid basis at public auction.

A. NAME OF LEASE

Geothermal Resources.

B. AUTHORIZING STATUTE

Geothermal Resources, I.C. Title 47, Chapter 16.

C. TITLE OF REGULATION

Rules and Regulations Governing the Issuance of Geothermal Resources Leases.

D. SUMMARY OF LEASING PROCESS

1. APPLICABILITY

Covers leasing of geothermal resources on State and school lands. Geothermal resources are defined as the natural heat energy of the earth, and are distinguished under law from mineral and water resources. The definition includes associated by-products.

2. GENERAL REQUIREMENTS

Annual rental fees are assessed for each acre or fraction thereof under lease. Royalties are also assessed on the value of geothermal production

from the premises. Surety bonds are required. Individuals are limited to owning or controlling an interest in geothermal resources in no more than 50 townships and ranges. Operations must be conducted to protect the natural resources.

3. SUBMISSION REQUIREMENTS

Applications require information on the property location, number of acres, and applicant's identity.

4. PROCEDURES

a. **Application:** Completed applications are submitted to the Department of Lands. Applications are considered in the order in which they are filed and receive a time stamp. Simultaneous filings are handled by a public drawing to determine right of priority.

b. **Review/Investigation:** Staff reviews the application for completeness. If the application is returned to the applicant for minor alterations, the applicant has 20 days to re-submit and still retain the original filing time. Prior to the issuance of a lease, one of the department's area offices conducts a field review.

c. **Public Notification/Hearing:** None required.

d. **Processing:** Completed applications are processed within 45 days.

e. **Terms:** Leases are effective for 10 years.

5. OPERATION REQUIREMENTS

All operations must conform to best practice and engineering principles, protect the natural resources, and maximize economic recovery. Any significant effect on the environment created by the operation must be reported within 24 hours and confirmed in writing within 30 days.

Exploration operations using motorized earth moving equipment require advance notice to the department. Any drilling of wells deeper than 1,000 feet requires the submission and approval of a plan of operations and a surety bond of \$10,000. Liability insurance is required for operations other than casual exploration or inspection.

Each lease must be diligently explored or it can be terminated. Accurate records of well-drilling and production need to be filed with the department.

6. FEES

The filing fee is \$25.00. Rental fees are computed per acre: \$1.00 per year for the first 5 years; \$2.00 per year for the second 5 years; \$3.00 per year thereafter.

Royalty fees are assessed at 10 percent of value for geothermal resources and 5 percent of value for associated by-products.

7. APPEAL PROCESS

Adverse decisions can be appealed to the district court.

E. ADMINISTERING AGENCY

Bureau of Minerals
Department of Lands
Statehouse Building, Room 121
Boise, Idaho 83720

(208) 334-4291

CHAPTER 3.1 ENERGY RESOURCES
3.1.2 GEOTHERMAL RESOURCE WELLS

INTRODUCTION

The Idaho Department of Water Resources regulates drilling, operation, maintenance and abandonment of all geothermal wells in the State. The department's authority also extends to related operations and environmental hazards pertaining to the exploration and development of geothermal resources.

A. NAME OF PERMIT

Geothermal Well Permit.

B. AUTHORIZING STATUTE

Geothermal Resources Act, I.C. 42-4001 through 42-4015.

C. TITLE OF REGULATION

Drilling for Geothermal Resources, Rules and Regulations and Minimum Well Construction Standards.

D. SUMMARY OF PERMIT PROCESS

1. APPLICABILITY

Geothermal wells used to extract minerals or generate electricity or other specialized purposes. Low temperature wells used for purposes such as space heating or fish propagation do not require a permit if the owner has an approved water right from the Department of Water Resources.

2. GENERAL REQUIREMENTS

A permit is required before work can begin on geothermal wells. Permits are not required for geotechnical exploratory wells less than 6 inches in diameter and less than 1,000 feet deep; for these wells, a notice of intent to drill must be filed. Regulations cover drilling, record requirements, blowout prevention, maintenance, and abandonment. Permits are necessary to deepen or modify a well, and to convert an existing well to an injection well. A bond is required to cover the cost of abandonment; usually \$10,000 for each drilled hole.

3. SUBMISSION REQUIREMENTS

Applications need to include information on the location, proposed depth, construction methods, intended use of the well or hole, and an abandonment plan.

4. PROCEDURES

- a. **Application:** Applicants proposing to drill for geothermal resources need to complete application form (S.F. 4003-1).

A notice of intent to construct a geotechnical hole needs to be filed with the director 20 days prior to construction.

An application for a permit to deepen or modify an existing well must be made on Form 4003-2; an application for a permit to convert to injection, on Form 4003-3; amended permit applications, on Form 4003-1.

- b. **Review/Investigation:** The department's staff reviews the permit application. Copies of applications are sent to the Departments of Fish and Game, Health and Welfare, and Lands for comments.
- c. **Public Notification/Hearings:** None required. Hearings can be requested by a petition to the director.
- d. **Processing:** Decisions are made within 30 days; timing can be expedited in some circumstances.

5. OPERATION REQUIREMENTS

The permit specifies operating requirements. Applicants need to comply with all pertinent regulations and conditions relating to construction, drilling, casing, blowout prevention, maintenance, and reporting. Monthly injection and energy reports, when relevant, are required. If the operator intends to abandon the well, a notice of intent must be filed and approved.

6. FEES

Production and exploratory wells: \$100.00; Injection wells: \$50.00; Permit amendments: \$50.00; Geotechnical hole construction: no fee.

7. APPEAL PROCESS

Written notice and request for a board hearing must be filed within 30 days of receipt of the director's decision. Board decisions can be appealed to district court.

E. ADMINISTERING AGENCY

Supervisor
Construction Permits
Department of Water Resources
450 W. State Street
Boise, ID 83720

(208) 334-4437

CHAPTER 3.1 ENERGY RESOURCES

3.1.3 SURFACE MINING

INTRODUCTION

The Idaho Surface Mining Act provides for protective measures to reclaim land surfaces disturbed by exploration and surface mining operations. Administered by the Department of Lands, the act is intended to protect the public health, safety, and welfare; to conserve natural resources; to aid in the protection of wildlife, domestic animals and aquatic resources; and to reduce soil erosion.

A. NAME OF PROGRAM

Surface Mining Reclamation Plan Approval.

B. AUTHORIZING STATUTE

Idaho Surface Mining Act, I.C. Title 47, Chapter 15.

C. TITLE OF REGULATION

Regulations pending.

D. SUMMARY OF PROGRAM

1. APPLICABILITY

Any operator desiring to conduct surface mining operations for the purpose of immediate or ultimate sale of the minerals in either the natural or processed state.

2. GENERAL REQUIREMENTS

Reclamation plans must have the approval of the Board of Land Commissioners prior to the operation. Reclamation procedures are specified in the regulations for operations disturbing any land within the State. Performance bonds are required at an amount specified by the department, not to exceed \$750.00 per acre of affected land. Persons conducting exploration operations using motorized earth-moving equipment must notify the board by certified mail within 7 days after beginning operations, and must identify the operator, location, dates, size, and general method of operation. The operator's information about the project is designated as confidential.

3. SUBMISSION REQUIREMENTS

Operators need to submit a detailed map of the mine panel, diagrams of planned pits, stockpiles and tailings pond, and a reclamation plan. Surface water and ground water information must be included.

4. PROCEDURES

- a. Application: Complete applications should be submitted to the Department of Lands.
- b. Review/Investigation: The proposed site is investigated by department representatives. The application may be reviewed by the Departments of Water Resources, Fish and Game, and Health and Welfare.
- c. Public Notification/Hearing: These can be initiated at the discretion of the Board of Land Commissioners.
- d. Processing: The reclamation plan is approved or rejected within 60 days after its receipt. If weather conditions prohibit an inspection during that time, the investigation shall occur within 30 days of the start of appropriate weather conditions.
- e. Terms: Reclamation must be initiated within 1 year after exploration operations have ceased and 3 years after mining. If the reclamation plan needs to be amended because of changes in circumstance, a supplemental plan must be submitted and approved. An approved reclamation plan is valid until area is mined and affected areas are reclaimed.

5. OPERATION REQUIREMENTS

The reclamation plan is designed for the individual operation; vegetation planting is required.

6. FEES

None.

7. APPEAL PROCESS

Within 60 days of final order of the board, appeals can be taken to district court.

E. ADMINISTERING AGENCY

Chief
Bureau of Minerals
Department of Lands
Statehouse Building, Room 121
Boise, ID 83720

(208) 334-3569

Federal Counterpart

Office of Surface Mining, Reclamation and Enforcement
U.S. Department of Interior
South Building, 1951 Constitution Ave. N.W.
Washington, D.C. 20240

(202) 343-4264

CHAPTER 3.1 ENERGY RESOURCES

3.1.4 OIL AND GAS DRILLING

INTRODUCTION

The Oil and Gas Conservation Commission regulates oil and gas drilling in Idaho, including enhanced recovery operations.

Any drilling on Federal lands in Idaho requires the approval of the U.S. Geological Survey, Menlo Park Office. Any drilling on U.S. Forest lands requires surface permits from the U.S. Forest Service.

A. NAME OF PERMIT

Permit to Drill for Oil and Gas.

B. AUTHORIZING STATUTE

Oil and Gas Wells, Geological Information and the Prevention of Waste, I.C. Title 47, Chapter 3.

C. TITLE OF REGULATIONS

General Rules and Regulations of the Oil and Gas Conservation Commission.

D. SUMMARY OF PERMIT PROCESS

1. APPLICABILITY

Covers drilling for oil and gas on all lands in the State.

2. GENERAL REQUIREMENTS

A permit is required before drilling can occur. Well logs are required and the commission must approve well drilling, casing, and plugging procedures to prevent waste, pollution, and accidents. The commission must approve spacing units for each pool. A performance bond is also required.

3. SUBMISSION REQUIREMENTS

Applicants need to present information on the proposed location of the

drilling, and the drilling and operation procedures. A certified survey plat of the well location must be included, along with a casing design, a description of blowout preventor equipment, an organization chart, and a performance bond.

4. PROCEDURES

- a. Application: A completed application form should be submitted to the Oil and Gas Conservation Commission.
- b. Review/Investigation: Staff reviews the application. The Department of Water Resources also receives a copy and has 15 days to recommend conditions necessary to protect freshwater supplies.
- c. Public Notification/Hearing: None required.
- d. Processing: No set time requirements; usually accomplished in 2 weeks.

5. OPERATION REQUIREMENTS

Operators need to submit copies of completion reports and tests, along with daily drilling reports and cuttings. Before abandoning the well, the commission must be notified.

6. FEES

\$100 for the application fee.

7. APPEAL PROCESS

Appeals heard in district court.

E. ADMINISTERING AGENCY

Oil and Gas Conservation Commission
P.O. Box 670
Coeur d' Alene, ID 83814

(208) 664-2171

CHAPTER 3.I ENERGY RESOURCES

3.1.5 OIL AND GAS LEASING

INTRODUCTION

The Board of Land Commissioners, through the Department of Lands, leases State and school lands for oil and gas development. Permits for drilling must be obtained from the Oil and Gas Conservation Commission. (See Chapter 3.1.4.)

The 1981 Legislature imposed an additional tax on oil and gas produced in Idaho. (See Section 47-331, I.C.)

A. NAME OF LEASE

Oil and Gas.

B. AUTHORIZING STATUTE

Oil and Gas Leases on State and School Lands, I.C. Title 47, Chapter 8.

C. TITLE OF REGULATION

Rules for Oil and Gas Leases on Idaho State Lands, IDAPA 20.05.

D. SUMMARY OF LEASE PROCESS

1. APPLICABILITY

Covers leasing of State and school lands for oil and gas development.

2. GENERAL REQUIREMENTS

Available lands are advertised and subject to competitive bidding. Leases require an annual rental fee and royalty payment. A bond is required and applicants acting on behalf of another party must provide power of attorney.

3. SUBMISSION REQUIREMENTS

Lease applications must identify the property location by lease tract number, and applicant identity.

4. PROCEDURES

- a. Application: Applications need to be submitted to the Department of Lands.
- b. Review/Investigation: The staff checks the application for completeness.
- c. Public Notification/Hearing: The auction is advertised in papers of general circulation, the trade journal, and through a mailing list of interested persons.
- d. Processing: Auctions are held on a quarterly basis.
- e. Terms: Leases are valid for 10 years.

5. OPERATION REQUIREMENTS

All operations must conform to the best practice and engineering principles, and an operation plan needs to be submitted and approved. Exploration operations, using motorized earth moving equipment, require advance notice to the department. Each lease must be diligently explored or terminated. Liability insurance is required for operations other than casual exploration and inspection. Accurate production reports need to be filed with the department.

6. FEES

Application fee: Regulations regarding fee amount are pending.

Rental: For first year, the competitive bid amount is assessed; thereafter, the charge is \$1.00 per acre, per year.

7. APPEAL PROCESS

Adverse decisions can be appealed to the district court.

E. ADMINISTERING AGENCY

Bureau of Minerals
Department of Lands
Statehouse Building
Boise, ID 83720

(208) 334-3569

CHAPTER 3.2 METALLIFEROUS MINING

3.2.1 DREDGE MINING

INTRODUCTION

The Department of Lands regulates dredge or other placer mining on lands and beds of streams in the State. Any proposal to alter the bed of a navigable stream or dredge any stream or watercourse requires approval from the Department of Water Resources. Dredge mining is prohibited on water bodies included in the national wild and scenic river system.

A. NAME OF PERMIT

Dredge Mining Permit.

B. AUTHORIZING STATUTE

Dredge Mining, I.C. Title 47, Chapter 13.

C. TITLE OF REGULATION

Rules and Regulations Governing Dredge and Placer Mining Operations; IDAPA 20.08.

D. SUMMARY OF PERMIT PROCESS

1. APPLICABILITY

A permit is required for all dredge or other placer mining operations on lands or beds of streams.

2. GENERAL REQUIREMENTS

Dredge or other placer mining operations need to be approved by the department, and must have a bond or security posted. The landowner must approve the operation. Proposed operations can be denied if they are judged not to be in the public interest due to economic, recreational or environmental factors. The U.S. Forest Service requires that an operating plan be submitted and approved prior to operation. An initial surety bond of \$15,000 is required for 10 acres or less.

3. SUBMISSION REQUIREMENTS

The information required includes a legal description of the land, and the

operation plans and specifications. If the operator is not the landowner, the application must be endorsed by the landowner.

4. PROCEDURES

- a. Application: Operators need to submit a complete application to the Department of Lands.
- b. Review/Inspection: The department conducts a review, with copies of the application sent to the Department of Water Resources for their recommendation.
- c. Public Notification/Hearing: None required.
- d. Processing: Variable.
- e. Terms: Covers life of operation.

5. OPERATION REQUIREMENTS

The department can stipulate permit conditions as it deems necessary.

6. FEES

Application fee: \$50.00 for each ten acres or less.

7. APPEAL PROCESS

Appeals heard by the district court.

E. ADMINISTERING AGENCY

Chief
Bureau of Minerals
Department of Lands
Statehouse Building, Room 121
Boise, ID 83720

(208) 334-3569

Federal Counterpart

Department of Agriculture
U.S. Forest Service
1075 Park
Boise, ID 83702

(208) 334-1516

CHAPTER 3.2 METALLIFEROUS MINING
3.2.2 MINE TAILINGS IMPOUNDMENT STRUCTURES

INTRODUCTION

The Department of Water Resources has established standards of construction for mine tailings impoundment structures. Construction of dams intended to store water in excess of the tailings requirements also need to meet the department's regulations for dam safety. Applicants must obtain the approval of the local land use authority.

A. NAME OF PROGRAM

Mine Tailings Impoundment Structures.

B. AUTHORIZING STATUTE

Irrigation and Drainage-Water Rights and Reclamation, I.C. Title 42, Chapter 17.

C. TITLE OF REGULATION

Mine Tailings Impoundment Structures Rules and Regulations.

D. SUMMARY OF PROGRAM

1. APPLICABILITY

Covers any artificial embankment more than 30 feet in height constructed to store mine tailings slurry.

2. GENERAL REQUIREMENTS

Persons desiring to construct a structure need to submit plans, drawings, and specifications prepared by a Registered Professional Engineer licensed in Idaho, and receive a certificate of approval to impound mine tailings slurry. Minimum design standards need to be met. An abandonment plan must be submitted, along with a bond or other acceptable surety.

3. SUBMISSION REQUIREMENTS

Applicants need to submit Form 1721, along with plans, drawings and

specifications. Detailed requirements for the application are outlined in Rule 5, and submission must include topographic maps, subsoil and geologic information, and operation, emergency and abandonment plans.

4. PROCEDURES

- a. Application: Complete application should be submitted to the Department of Water Resources.
- b. Review/Investigation: Departmental review of application is conducted, with inspections during specific stages of construction.
- c. Public Notification/Hearing: None required.
- d. Processing: Department will review plans, drawings and specifications in no less than 14 days and no more than 60 days after receipt.

5. OPERATION REQUIREMENTS

Periodic test and inspection reports need to be submitted to the department. Upon completion of each stage of construction, the applicant must submit a narrative account of work. Terms and conditions are stipulated for each project. Inspection of operations shall occur at least once every 2 years. Before abandonment, detailed plans need to be submitted and approved.

6. FEES

Fees vary depending on storage capacity.

7. APPEAL PROCESS

Appeals can be taken to district court.

E. ADMINISTERING AGENCY

Supervisor
Dam Safety Section
Department of Water Resources
450 W. State St.
Boise, ID 83720

(208) 334-4009

3. SUBMISSION REQUIREMENTS

Applications must identify the applicant, property location and commodity, and must be accompanied by an advance rental and application fee.

4. PROCEDURES

a. The applicant needs to submit a lease application to the Department of Lands. Applications are stamped when received and right of priority determined by the order in which the application is received. Simultaneous filings are resolved by a drawing within 30 days.

b. Review/Investigation: The staff conducts a field check of the site.

c. Public Notification/Hearing: Discretionary.

d. Processing: Applications are processed within 45 days.

e. Terms: Mineral leases can be valid for a maximum of 10 years.

5. OPERATION REQUIREMENTS

An operation plan must be submitted and approved by the department. The lessee is responsible for all damages to the surface of the land. Any mines operated under the lease are inspected by the department. A \$5,000 mineral lease bond is required. Exploration with heavy equipment requires a permit and a bond equal to \$750.00 per acre of affected acreage.

6. FEES

Application fee: \$10.00.

Rental fee: \$160.00 minimum, \$1.00 per acre for leases over 160 acres or each fraction thereof.

7. APPEAL PROCESS

Adverse decisions can be appealed to district court.

E. ADMINISTERING AGENCY

Bureau of Minerals
Department of Lands
Statehouse Building, Room 121
Boise, ID 83720

(208) 334-3569

CHAPTER 3.2 METALLIFEROUS MINING
3.2.4 MINERAL RIGHTS: CASUAL EXPLORATION

INTRODUCTION

The Board of Land Commissioners, through the Department of Lands, has authority to regulate prospecting and exploration for mineral resources from State land. Casual exploration for minerals is allowed on most parcels of land under the Board's jurisdiction.

A. NAME OF PROGRAM

Mineral Rights in State Lands.

B. AUTHORIZING STATUTE

Mines and Mining, I.C. 47-701

C. TITLE OF REGULATION

Rules pending.

D. SUMMARY OF PROGRAM

1. APPLICABILITY

State land is open to prospecting and exploration with some regulations, unless the parcel has been specifically excluded.

2. GENERAL REQUIREMENTS

Mineral location notices may be filed with the Board of Land Commissioners. These filings provide for exclusive exploration privileges. Locations are limited to a maximum of 20 acres in size, but the number of locations is not limited.

3. SUBMISSION REQUIREMENTS

A completed mining claim location form is required and the location must be staked in compliance with I.C. 47-703.

4. PROCEDURES

- a. Application: Completed mining claim location form and fees must be submitted to the Department of Lands.
- b. Review/Investigation: The location is checked to determine if the ground is open.
- c. Public Notification/Hearing: None.
- d. Processing: If the location is open, no additional processing is required; if withdrawn or already filed on, the claim is rejected.
- e. Terms: The location is valid for 2 years from the July 1 following the filing.

5. OPERATION REQUIREMENTS

The operator must perform \$100 of exploration work on each claim each year or an average of \$100 per claim for a group of claims. Exploration with heavy equipment, as defined in the statute, requires a permit and bond.

6. FEES

\$50 per location.

7. APPEAL PROCESS

Appeals can be taken to district court.

E. ADMINISTERING AGENCY

Idaho Department of Lands
Statehouse, Room 121
Boise, ID 83720

(208) 334-2180

CHAPTER 3.2 METALLIFEROUS MINING

3.2.5 MINERAL LEASING ON BEDS OF NAVIGABLE WATERS

INTRODUCTION

The Board of Land Commissioners through the Department of Lands regulates mineral leasing on navigable waters.

A. NAME OF PROGRAM

Mineral leasing on beds of navigable waters.

B. AUTHORIZING STATUTE

Mines and Mining, I.C. 47-701.

C. TITLE OF REGULATION

Rules for Mineral Leasing on Beds of Navigable Rivers.

D. SUMMARY OF PROGRAM

1. APPLICABILITY

Applies to any agency or individual proposing to remove bed materials.

2. GENERAL REQUIREMENTS

Leases are required prior to removal of any materials for commercial purposes.

3. SUBMISSION REQUIREMENTS

Applications must be made on a Department of Lands mineral lease application form. A proposed operating plan must accompany the application.

4. PROCEDURES

a. **Applications:** Completed applications may be submitted to any Department of Lands' field office or to the director's office in Boise.

b. **Review/Investigation:** Upon receipt, the application is checked to determine if all required information is provided, and whether the

river segment applied for is available for lease. The application is submitted to State and local agencies for comment.

The Board of Land Commissioners regulates the removal of mineral resources from State land and beds of navigable waters. Such removal requires a State Stream Channel Alteration Permit from the Department of Water Resources. A 404 permit may be required from the Corps of Engineers, as well as a National Pollution Discharge Elimination System (NPDES) permit from the Environmental Protection Agency.

- c. Public Notification/Hearing: The application is advertised in a local paper for 2 consecutive weeks. A hearing may be held at the discretion of the director or upon written request from ten persons.
- d. Processing: Upon completion of the advertising and/or hearing process, the application is submitted to the State Board of Land Commissioners for consideration. Processing time is usually 30 to 90 days.

5. OPERATION REQUIREMENTS

Leases are issued for 10-year periods. The act provides for preferential renewal, subject to Land Board rules.

6. FEES

Application fee is \$10. Rental fee is \$160 minimum; an additional \$1.00 per acre for leases over 160 acres or each fraction of an acre.

7. APPEAL PROCESS

Appeals can be taken to district court.

E. ADMINISTERING AGENCY

Bureau of Navigable Waters
Idaho Department of Lands
Statehouse, Room 121
Boise, ID 83720

(208) 334-3280

Federal Counterpart

Idaho Operations Office
Environmental Protection Agency
422 W. Washington
Boise, ID 83720

(208) 334-1450

Department of the Army
Seattle District Office
Corps of Engineers
P.O. Box C-3755
Seattle, WA 98124

(206) 764-3495

CHAPTER 3.3 CONSTRUCTION MATERIALS

Extraction of construction materials is regulated under the Surface Mining Act (see Chapter 3.1.3).

SECTION 4.0
LAND USE REGULATION

CHAPTER 4.1 MAJOR FACILITY SITING

4.1.1 PUBLIC UTILITIES

INTRODUCTION

The Idaho Public Utilities Commission regulates public utilities for the State. The Commission is responsible for issuing certificates of public convenience and necessity. The Commission requires that the project meet State environmental regulations for water quality. Hydroelectric projects must have the approval of the Commission before applying to the Federal Energy Regulatory Commission.

A. NAME OF PERMIT

Certificate of Public Convenience and Necessity.

B. AUTHORIZING STATUTE

Public Utility Regulation, I.C. Title 61.

C. TITLE OF REGULATION

Rules of Practice and Procedure of the Idaho Public Utilities Commission.

D. SUMMARY OF PERMIT PROCESS

1. APPLICABILITY

Covers construction or extension of street, railroad, line, plant, or system by a public utility.

2. GENERAL REQUIREMENTS

A certificate of convenience and necessity is required from the Idaho Public Utilities Commission, and must be issued before the applicant obtains a franchise or exercises a right or privilege from a municipality or county. Future changes in rates or rules, as well as proposals to issue securities, must have the prior approval of the Commission.

3. SUBMISSION REQUIREMENTS

Applicant needs to submit a certified copy of his/her articles of incorporation or charter, and information proving the need for the proposed construction, including a full description of the proposal, a map, and financing and scheduling information.

4. PROCEDURES

- a. Application: Completed applications are submitted to the Public Utility Commission.
- b. Review/Investigation: The commission conducts a formal inquiry, relying on the procedures set out in the regulations.
- c. Public Notification/Hearing: Press release sent to major newspapers and interested parties. Public hearing held at discretion of commission.
- d. Processing: Timing is dependent on the nature of the proposal; no set limit exists.
- e. Terms: Variable, depending on nature of the proposal.

5. OPERATION REQUIREMENTS

Variable, depending on nature of the proposal.

6. FEES

None.

7. APPEAL PROCESS

A rehearing can be requested within 20 days of commission order.

E. ADMINISTERING AGENCY

Commission Secretary
Idaho Public Utilities Commission
472 W. Washington St.
Boise, ID 83720

(208) 334-3140

CHAPTER 4.1 MAJOR FACILITY SITING

4.1.2 AIRPORT SITING

INTRODUCTION

The Division of Aeronautics and Public Transportation of the Idaho Transportation Department regulates the construction and establishment of airports. The Division cooperates with the Northwest Region of the Federal Aviation Administration in determining airspace requirements.

A. NAME OF PROGRAM

Airport Siting Approval.

B. AUTHORIZING STATUTE

Aeronautics, I.C. Title 21, Section 115.

C. TITLE OF REGULATION

Approval and Designation of Airport Sites, Rule No. IDAPA 39.03.27.1.

D. SUMMARY OF PROGRAM

1. APPLICABILITY

Approval required for siting of public and private airports.

2. GENERAL REQUIREMENTS

Proposed airport site must be approved and appropriately classified.

3. SUBMISSION REQUIREMENTS

Applicants must submit Federal Aviation Administration Form 7480-1, Notice of Landing Area Proposal.

4. PROCEDURES

a. Application: Needs to be submitted to the Division of Aeronautics and Public Transportation.

b. Review/Investigation: Applications are evaluated to determine

public use benefits, adequacy of site, conformance to safety standards, and maintenance of safe air travel patterns. Standards established by the Federal Aeronautics Administration are utilized for evaluation. Waiver of standards is possible in situations where the interest of the general public would be served.

- c. Public Notification/Hearing: For publicly owned projects, the A-95 review process is utilized.
- d. Processing: Timing depends on scope of proposal; decisions usually made within 30 days.

5. OPERATION REQUIREMENTS

Operations must comply with Federal requirements. The site approval can be revoked if the applicant abandons the site, fails to develop the site within a reasonable time, does not comply with approval conditions, or operates the airport in an unsafe manner. Revocation can also occur if a change of physical or legal conditions makes the site no longer useable for the original aeronautical purposes.

6. FEES
None.

7. APPEAL PROCESS
Appeals can be taken to district court.

E. ADMINISTERING AGENCY

Airport Development Supervisor
Idaho Transportation Department
3483 Rickenbacker Street
Boise, ID 83705

(208) 334-3183

Federal Counterpart

Airspace Specialist
Northwest Regional Office
FAA Building, Boeing Field
Seattle, WA 98108

(206) 767-2610

CHAPTER 4.2 LAND USE

4.2.1 RIGHTS-OF-WAY OVER STATE LAND

INTRODUCTION

The Department of Lands requires prior authorization of persons and agencies occupying State land, including the beds of navigable waters. The Idaho Code and Land Board policy provides that easements for use of State land may be granted for ditches, reservoirs, railroads, and telegraph, telephone, and electric lines; pipelines for petroleum products; and rights-of-way for other public, private or beneficial use. An easement may not be used to circumvent sale procedures.

All easement or permit applications are coordinated with the Lake Protection Act requirements or with the Stream Channel Protection Act, and administered by the Department of Water Resources where applicable.

A. NAME OF PROGRAM

Rights-Of-Way Over State Land.

B. AUTHORIZING STATUE

Public Lands, I.C. Title 58, Sections 603 and 104(9).

C. TITLE OF REGULATION

Rules in process.

D. SUMMARY OF PROGRAM

1. APPLICABILITY

All private and public agencies intending to occupy State land.

2. GENERAL REQUIREMENTS

Applicants need prior approval for route surveying. Rights-of-way for waterlines, roads, or access over lands or navigable waters owned by the State, require prior approval for the pump, waterline, road location, or access and survey.

3. SUBMISSION REQUIREMENTS

An application for easement must be in writing accompanied by a metes

and bounds description of the property included in the request, four copies of the platted description, and a statement of the intended use. All distances must be shown in feet and all bearings in degrees, minutes and seconds in relation to true north. The bearing and distance of the point of beginning of the metes and bounds description to the nearest section or one-quarter section corner must be included in the description and shown on the plat. Plan and profile drawings must be included.

4. PROCEDURES

- a. **Application:** Complete applications need to be submitted to the Department of Lands.
- b. **Review/Investigation:** For easement, the proposal is checked to determine potential conflicts with existing easements. The proposal is then submitted for field review to determine land values and special terms necessary to protect State land and the environment. The Department of Water Resources may review the proposal.
- c. **Public Notification/Hearing:** The law does not require public notice or hearings, but in unusual cases the board may order such a procedure upon recommendation of the Department of Lands.
- d. **Processing:** Applications for easement require at least 60 days for full processing.
- e. **Terms:** Temporary permits are issued for a period of 5 years and are normally renewable for an additional 5 years upon written request and at the discretion of the director, Department of Lands.

Easements are for a single use limited by the terms of easement. All easements carry a 5-year reversion clause to protect against non-use or abandonment. Use rights are transferable upon approval of the Land Board.

5. OPERATION REQUIREMENTS

The permit may include terms and conditions set by the board.

6. FEES

The easement application fee is \$10.00. The consideration for an easement is based on appraised land values and the impairment of the State title, and is determined after an application is received.

7. APPEAL PROCESS

Appeals to board decisions must be made to district court. In the case of certain agencies with right of eminent domain, condemnation may occur in the event of an adverse board decision.

E. ADMINISTERING AGENCY

Chief
Bureau of Lands
Idaho Department of Lands
Statehouse, Room 121
Boise, ID 83720

(208) 334-2934

CHAPTER 4.2 LAND USE
4.2.2 STREAM CHANNEL ALTERATION

INTRODUCTION

The Department of Water Resources regulates stream channel alterations through minimum standards and permits. The department has established three classes of proposed alterations, with variable review and processing requirements. This classification allows the department to quickly process those applications which are of a common type and which do not propose alterations which will be a hazard to the stream channel and its environment.

A. NAME OF PROGRAM

Stream Channel Alteration.

B. AUTHORIZING STATUTE

Irrigation and Drainage-Water Rights and Reclamation, I.C. Title 42, Chapter 38 (Alteration of Channels of Streams).

C. TITLE OF REGULATION

Stream Channel Alterations Rules and Regulations and Minimum Standards.

D. SUMMARY OF PROGRAM

1. APPLICABILITY

All stream channel alterations occurring below the mean high water mark.

2. GENERAL REQUIREMENTS

Permits are required, with the following exceptions: construction work on a reservoir project; work within specific portions of the Snake and Clearwater Rivers; cleaning, maintaining, or repairing a diversion structure, or removing obstruction to water delivery as authorized under a water right or water right permit; removal of debris from a stream channel when no equipment is used and all material removed is relocated outside the channel.

The department has minimum standards covering construction procedures, riprap, dikes and levees, jetties, culverts and bridges, removal of sand and gravel deposits, suction dredges, pilings and pipe crossings.

3. SUBMISSION REQUIREMENTS

The nature and purpose of the work must be described; drawings with water surface lines as references must be included. 2 copies of the plans must be submitted with aerial photographs if possible. Less detailed plans are required when minimum standards will be met by applicant.

4. PROCEDURES

- a. Application: Applications should be filed at least 60 days before construction is proposed, on Form 3804.
- b. Review/Investigation: If the proposal does not meet minimum standards, the application will be circulated for review by the Departments of Fish and Game, Health and Welfare, Lands, the State Archaeologist, the U.S. Fish and Wildlife Service, and the U.S. Army Corps of Engineers, as well as flood control districts, and counties and cities with jurisdiction.
- c. Public Notification/Hearing: For major projects, a press release is issued.
- d. Processing: Small vacuum dredge proposals can be approved immediately. Proposals meeting the minimum standards usually involve a 7-day review.

5. OPERATION REQUIREMENTS

Projects must meet minimum standards unless an exception is specifically approved. Bonds may be required as a condition for major projects.

6. FEES

None.

7. APPEAL PROCESS

A written notice and request for a hearing before the board must be filed within 15 days of the director's decision. Appeals of board's decision can be taken to district court within 30 days from decision issuance.

E. ADMINISTERING AGENCY

Supervisor
Construction Permits
Department of Water Resources
450 W. State St.
Boise, ID 83720

(208) 334-4291

CHAPTER 4.2 LAND USE

4.2.3 MARKING OF OBSTRUCTIONS TO AIR FLIGHT

INTRODUCTION

The Division of Aeronautics and Public Transportation of the Idaho Transportation Department regulates the marking of obstructions to air flight.

Federal Aviation Administration notification, marking and lighting requirements are contained in FAA Regulation Part 77 and FAA Advisory Circular AC-7460-1E.

A. NAME OF PROGRAM

Marking of Obstructions to Air Flight.

B. AUTHORIZING STATUTE

Aeronautics, I.C. 21-513 through 21-520.

C. TITLE OF REGULATION

Marking of Obstructions to Air Flight, IDAPA 39.03.27.3.

D. SUMMARY OF PROGRAM

1. APPLICABILITY

Covers any obstruction determined to be a hazard; usually applies to power lines, communication lines, wires, and cable or guyed structures. Also covers highways, railroads, and other potential obstructions near public-use airports. (See Rules 5.7 and 5.8.)

2. GENERAL REQUIREMENTS

Obstructions need to be plainly marked, lighted, or designated in a manner approved by the division. A notice of proposed construction or alteration must be submitted to determine whether or not the obstruction is a hazard.

3. SUBMISSION REQUIREMENTS

Applicant needs to submit location and construction details.

4. PROCEDURES

- a. Application: Applicants should submit FAA Form 7460-1, "Notice of Proposed Construction or Alteration" at least 30 days before construction or application for a construction permit. Telephone notification can be made in cases involving public services, health, or safety, with written notification to follow in 5 days.
- b. Review/Investigation: Staff conducts review.
- c. Public Notification/Hearing: None required.
- d. Processing: A determination is made within 30 days.

5. OPERATION REQUIREMENTS

If the obstruction is determined to be a hazard, the applicant must submit marking and/or lighting plans at least 10 days ahead of work.

6. FEES

None.

7. APPEAL PROCESS

Appeals can be taken to district court.

E. ADMINISTERING AGENCY

Administrator
Idaho Division of Aeronautics and Public Transportation
3483 Rickenbacker Street
Boise, ID 83705

(208) 334-3183

Federal Counterpart

Airspace Specialist
Northwest Regional Office
FAA Building, Boeing Field
Seattle, WA 98108

(206) 767-2610

CHAPTER 4.3 FLOOD PLAIN MANAGEMENT

Idaho participates in the Federal flood insurance program of the Federal Emergency Management Agency (FEMA). This program is implemented on the local level, with the State functioning as an intermediary. Local governments adopt land use zoning ordinances related to flood control, which must be approved by FEMA.

The Department of Water Resources also works with State agencies to ensure that their programs and procedures address the necessary provisions of the Federal flood control laws and regulations. The Department maintains flood hazard maps, and publishes a newsletter for local governments.

ADMINISTERING AGENCY

Department of Water Resources
Eastern Regional Office
150 Shoup
Idaho Falls, ID 83401

(208) 525-7161

CHAPTER 4.4 FORESTRY

INTRODUCTION

The Department of Lands administers the Forest Practices Act as well as the Fire Hazard Reduction Law. These regulations outline standards for forest-related operations. The following permits and approvals may be pertinent to energy and natural resource development:

Burning Permits: Burning without a permit is prohibited from May 10 through October 20 each year. Permits are issued by the District Fire Wardens, and other fire protection agencies, including the National Forest Service, and the Bureau of Land Management. Terms and conditions are determined by the administering agency, and most permits are valid for not more than 10 days. No fee. (See 601.04 in Rules and Regulations Pertaining to Forest Fire Protection.)

Certificate of Compliance and Clearance: For operations involving the cutting of any forest product or potential forest product, a certificate of compliance must be issued by the State Forester to verify the utilization of appropriate hazard management practices for slash disposal. Operators need to request a certificate of compliance in writing or in person; the State Forester then inspects the areas. If the fire hazard has been properly disposed of, a Certificate of Clearance shall be issued. No fee. (See 601.10 in Rules and Regulations Pertaining to Forest Fire Protection.)

Forest Practices Notification: Before initiating a forest practice, the operator needs to notify the Department of Lands by filing a notification form. The notification form needs to identify the name and address of the operator, timber owner, and landowner, and to include a legal description of the areas. This notification form is a dual-purpose form, in that it may serve as a certificate of compliance when applicable. Approved notifications are valid for a period not to exceed 2 years, and must be renewed through the same procedure. Cease and repair orders can be issued in the case of violations. No fee. (See 38-1306 in Rules and Regulations Pertaining to Forest Practices.)

ADMINISTERING AGENCY

Division of Forest Resources
Idaho Department of Lands
P.O. Box 670
Coeur d'Alene, ID 83814

(208) 664-2171

SECTION 5.0
ENVIRONMENTAL QUALITY MANAGEMENT

CHAPTER 5.1 AIR QUALITY

The 1981 Idaho Legislature failed to fund the State's Air Quality Program. The Environmental Protection Agency will be adopting and enforcing air quality regulations, and should be contacted for information.

ADMINISTERING AGENCY

Idaho Operations Office
Environmental Protection Agency
422 W. Washington
Boise, ID 83720

(208) 334-1450

CHAPTER 5.2 WATER QUALITY

5.2.1 WATER QUALITY PROGRAMS, SUBSURFACE DISPOSAL

INTRODUCTION

The Environmental Protection Agency administers the National Pollution Discharge Elimination System (NPDES) program for the State of Idaho through their Idaho field office. The Idaho Department of Health and Welfare provides sign-offs on the certification for these waste discharge permits.

The Department of Health and Welfare is involved in water quality regulation through two other programs. One involves the review and approval of all plans and specifications for the construction, modification, or expansion of sewage and waste treatment systems and public water supply systems prior to construction. Within 30 days of completion of the work, complete and accurate plans and specifications must be submitted to the department. The department works with the 7 Public Health Districts to administer this program.

The other program related to water quality is the department's regulation of individual and subsurface sewage disposal systems. A description of this permit program follows.

A. NAME OF PROGRAM

Subsurface Sewage Disposal.

B. AUTHORIZING STATUTE

Health and Safety, I.C. Title 39, Chapter 1 and 36.

C. TITLE OF REGULATION

Rules and Regulations for Individual and Subsurface Sewage Disposal Systems, Title 1, Chapter 3.

D. SUMMARY OF PERMIT PROCESS

I. APPLICABILITY

Covers all sewage disposal systems, other than a municipal or community

system, receiving human excreta and/or liquid waste from more than one premise. (This category includes septic tank-soil absorption systems, privies, and chemical type toilets).

2. GENERAL REQUIREMENTS

Permit required to construct, alter or extend subsurface sewage disposal systems. Installers need a registration permit.

3. SUBMISSION REQUIREMENTS

A written application needs to include description of property location, complete plan of proposed facility with substantiating data, and any additional data deemed necessary.

4. PROCEDURES

- a. Application: Must be submitted to the District Health Office.
- b. Review/Investigation: Inspections may be conducted.
- c. Public Notification/Hearing: None.
- d. Processing: Varies depending on proposal.
- e. Terms: Permit is valid for 1 year.

5. OPERATION REQUIREMENTS

The permit can prescribe specific design or construction standards. It may be conditioned to require the system be abandoned by a specific date or when a central sewerage system is available. Inspections to determine compliance with regulations shall be held.

6. FEES

Varies from district to district.

7. APPEAL PROCESS

Appeals can be taken to the Board of Health and Welfare.

E. ADMINISTERING AGENCY

Division of Environment
Idaho Department of Health and Welfare
450 W. State Street
Boise, ID 83720
(208) 334-4250

District Health Departments

Panhandle District
2195 Ironwood Ct.
Coeur d'Alene, ID 83814
(208) 667-3481

North Central District
1221 F Street
Lewiston, ID 83501
(208) 746-1331, Ext. 65

Southwest District
1117 Arthur
Caldwell, ID 83605
(208) 459-0744

Central District
1455 North Orchard St.
Boise, ID 83704
(208) 375-5211

South Central District
P.O. Box 547
Twin Falls, ID 83301
(208) 734-5900

Southeastern District
465 Memorial Drive
Pocatello, ID 83201
(208) 233-9080

District Seven
254 "E" Street
Idaho Falls, ID 83401
(208) 523-5382

CHAPTER 5.2 WATER QUALITY

5.2.2 WASTE DISPOSAL AND INJECTION WELLS

INTRODUCTION

The Department of Water Resources regulates waste disposal and injection wells through minimum standards and a permit system. The purpose of these regulations is to protect ground water from unreasonable contamination or deterioration of quality and to preserve such waters for diversion to beneficial uses.

A. NAME OF PERMIT

Waste Disposal and Injection Wells.

B. AUTHORIZING STATUTE

Irrigation and Drainage -- Water Rights and Reclamation, I.C. Title 42, Chapter 39 (Waste Disposal and Injection Wells).

C. TITLE OF REGULATION

Waste Disposal and Injection Wells Rules and Regulations.

D. SUMMARY OF PERMIT PROCESS

1. APPLICABILITY

Waste disposal and injection wells are defined as any excavation or artificial opening into the ground more than 18 feet in vertical depth, the purpose of which is subsurface disposal.

2. GENERAL REQUIREMENTS

Permits are required for waste disposal and injection wells. The regulations establish standards for well construction, location, use, abandonment, monitoring, and reporting. Disposal wells are classified into two categories (Class I and Class II) according to their proposed injection zone relative to drinking water sources; the standards and requirements vary depending on the classification.

3. SUBMISSION REQUIREMENTS

For Class I wells (those wells injecting either directly or indirectly into a

drinking water source) applicants need to submit an application describing the proposed location and quantity and quality of waste.

Class II wells are those wells extending below all drinking water sources into unsaturated voids or aquifers which do not contain water suitable for drinking. These wells require more extensive information to establish proof that the discharge will not potentially affect any drinking water sources or other property rights. (Specific application requirements are described in Section 5.2.1 of the Rules and Regulations.)

4. PROCEDURES

- a. **Application:** Completed applications need to be submitted to the Department of Water Resources.
- b. **Review/Investigation:** The applications are reviewed by the department, and may be circulated to the Department of Health and Welfare, EPA, and the Oil and Gas Conservation Commission.
- c. **Public Notification/Hearing:** Press releases distributed to newspapers in county where project is proposed. For all wells requesting waivers, a legal notice must be made by the applicant and a 30-day comment period must be allowed following its publication. Hearing can be requested by an interested party and held if deemed necessary by the director.
- d. **Processing:** The department will review the effluent quality and location of the proposed well, and additional factors outlined in Rule 7. For Class I wells, decisions are usually made within 30 to 90 days. Class II wells require between 60 and 90 days.
- e. **Terms:** Permits are issued for specific time periods, not to exceed 5 years.

5. OPERATION REQUIREMENTS

Wells need to meet minimum standards, and the permit may contain

additional conditions to ensure drinking water source protection. Monitoring, record keeping, and reporting requirements are established for each permit, with a stipulation that all monitoring records be maintained for 5 years. The permit can be assigned, with proper notification to the department.

6. FEES

No fees are required for applications for modification of injection wells for which a permit has previously been issued, nor for wells in operation prior to January 1, 1971. All other applications have a \$25 filing fee.

7. APPEAL PROCESS

Decisions may be appealed within 30 days of receipt to the Water Resource Board. The Board's decisions can be appealed to district court within 30 days of decision.

E. ADMINISTERING AGENCY

Supervisor
Construction Permits
Department of Water Resources
450 W. State St.
Boise, ID 83720

(208) 334-4291

CHAPTER 5.3 WATER SUPPLY
5.3.1 WATER RIGHTS AND APPROPRIATION

INTRODUCTION

The Department of Water Resources administers the water appropriation program. Idaho law states that the "first in time is the first in right." Water must be physically diverted by means of pumps, pipeline, dams, or canals before an individual can take possession of the water. A landowner whose property is adjacent to water does not have a water right in Idaho simply by virtue of land ownership, nor does a landowner necessarily have a water right to a source contained on the land. Only the Water Resource Board may apply for instream flow rights not requiring a diversion of the water.

The Director of the Department of Water Resources has declared 7 critical ground water basin areas, which are closed to additional water rights from ground water. Drilling wells or any additional ground water development in the critical areas is allowed only to fill existing water rights or for domestic use and stock watering.

- A. NAME OF PERMIT
Water Rights Permit.
- B. AUTHORIZING STATUTE
Irrigation and Drainage -- Water Rights and Reclamation, I.C. Title 42.
- C. TITLE OF REGULATION
Regulations based on case law and statute interpretation.
- D. SUMMARY OF PERMIT PROCESS
 - 1. APPLICABILITY
All water uses, with the exception of ground water used only for domestic use and stock watering (less than 13,000 gallons per day).
 - 2. GENERAL REQUIREMENTS
Water use requires a water right permit which allows a certain amount of

water for a specified use. An approved application is a permit, and the user may develop the water and submit proof of beneficial use within 5 years. Subsequently, the department may license the water right. Licenses remain valid so long as the use is not abandoned or forfeited by 5 years of non-use.

3. SUBMISSION REQUIREMENTS

An application needs to be completed, listing the location, quantity, and intended uses of the water. A map must be attached, showing the well, spring, or stream location, along with main ditch or pipe line and point of diversion.

4. PROCEDURES

- a. **Application:** Completed applications need to be submitted to the Water Resources Department.
- b. **Review/Investigation:** The staff reviews the application and may conduct a field investigation.
- c. **Public Notification/Hearing:** A notice is published once a week for 2 consecutive weeks in the county where diversion will occur, or in a paper of general circulation. If a protest is filed, a hearing is held.
- d. **Processing:** Unprotested applications are acted on in 35 to 45 days; protested applications require anywhere from 3 months or longer.

5. OPERATION REQUIREMENTS

The applicant must submit proof of beneficial use within a specified time period requested by the applicant of from 1 to 5 years. One extension may be allowed. Following a field investigation of the water system, a license may be issued. The point of diversion, place of use, nature of use and period of use of a water right license can be transferred if approved by the department.

6. FEES

Variable from \$30.00 to several thousand dollars depending on water quantity.

7. APPEAL PROCESS

Decisions can be appealed to a district court within 30 days.

E. ADMINISTERING AGENCY

Supervisor
Water Allocation Section
Department of Water Resources
450 W. State St.
Boise, ID 83720

(208) 334-4104

CHAPTER 5.3 WATER SUPPLY
5.3.2 PUBLIC DRINKING WATER SYSTEMS

INTRODUCTION

The Board of Health and Welfare administers the Safe Drinking Water Program for the State. Public drinking water systems are regulated to ensure public health protection.

A. NAME OF PROGRAM

Public Drinking Water Systems.

B. AUTHORIZING STATUTE

Food, Drugs and Oil, I.C. Title 37, Chapter 21 and Health and Safety, Title 39, Chapter 1.

C. TITLE OF REGULATION

Idaho Regulations for Public Drinking Water Systems, I-8000 through I-8999.

D. SUMMARY OF PROGRAM

1. APPLICABILITY

Drinking water systems serving or intending to serve 10 or more premises or households, or at least 25 individuals daily at least 60 days per year, or other significant public water systems.

2. GENERAL REQUIREMENTS

Public water systems need to be approved for their compliance with drinking water standards. Requirements cover construction, operation and maintenance, chemical and bacterial quality, and monitoring. All plans and specifications need to be prepared by or under the supervision of a professional engineer registered in Idaho.

3. SUBMISSION REQUIREMENTS

Preliminary engineering reports and plans and specifications need to be submitted.

4. PROCEDURES

- a. Application: Applicants should contact one of the department's 5 field offices to set up a prehearing conference.
- b. Review/Investigation: The field offices investigate the proposed system.
- c. Public Notification/Hearing: None required.
- d. Processing: Usually 2 to 3 weeks.
- e. Terms: Regulation is ongoing for life of system.

5. OPERATION REQUIREMENTS

Monitoring and sampling is required, along with maintenance of records and reporting requirements. The system's operator(s) must be identified.

6. FEES

None.

7. APPEAL PROCESS

Appeals heard by the Board of Health and Welfare.

E. ADMINISTERING AGENCY

Public Water Supply Manager
Division of the Environment
Department of Health and Welfare
450 W. State St.
Boise, ID 83720

(208) 334-4253

Region I
2110 Ironwood Parkway
Coeur d'Alene, ID 83814

(208) 667-3524

Region I (Sub-Office)
1118 F Street
Lewiston, ID 83501

(208) 746-2651, Ext. 430

Region II
801 Reserve Street
Boise, ID 83720

(208) 334-3823

Region II (Sub-Office)
1120 Blue Lakes Blvd. No.
P.O. Box 1626
Twin Falls, ID 83301

(208) 734-4000, Ext. 275

Region III
636 Pershing
Pocatello, ID 83201

(208) 233-6170, Ext. 291

CHAPTER 5.3 WATER SUPPLY

5.3.3 DAM CONSTRUCTION

INTRODUCTION

The Department of Water Resources administers a dam safety program patterned after the recommendations issued by the U.S. Committee on Large Dams.

A. NAME OF PROGRAM

Dam Construction.

B. AUTHORIZING STATUTE

Irrigation and Drainage -- Water Rights and Reclamation, I.C. Title 42, Chapter 17.

C. TITLE OF REGULATION

Safety of Dams, Rules and Regulations.

D. SUMMARY OF PROGRAM

1. APPLICABILITY

Regulations cover dams 10 feet or more in height with an impounding capacity of 50 acre-feet or more (at maximum storage elevation). Dams on Federal as well as State land are covered.

2. GENERAL REQUIREMENTS

The department reviews and approves construction considering design criteria for large dams (more than 20 feet in height or storing 100 acre-feet or more) or small dams (20 feet or less in height storing less than 100 acre-feet) and regulates operation and maintenance through periodic inspection of all dams under their jurisdiction for the full life of such dams. Applicants need approval for large or small dam projects; inspections are made during construction to ensure conformance with standards.

New or existing (Federal or non-federal) projects are inspected biennially.

Based on inspection results, storage certificates are issued, indicating that the owners are properly operating and maintaining their structures.

3. SUBMISSION REQUIREMENTS

Applications for small dams made on Form 1710. For large dams, application should be made on Form 1712 and should include detailed plans and specifications prepared by a professional engineer licensed in Idaho. Additional information can be requested to complete application.

4. PROCEDURES

- a. Application: Completed applications need to be submitted to the Department of Water Resources.
- b. Review/Investigation: The department conducts an inspection as necessary.
- c. Public Notification/Hearing: None required.
- d. Processing: Departmental review of plans and specifications is completed in no less than 14 and no more than 60 days.

5. OPERATION REQUIREMENTS

Terms and conditions are stipulated for each project. Upon completion of each stage of construction, an inspection is made. Inspections of completed projects occur at least once every 2 years.

6. FEES

Fees vary depending on storage capacity.

7. APPEAL PROCESS

Decisions can be appealed to district court.

E. ADMINISTERING AGENCY

Supervisor
Dam Safety Section
Department of Water Resources
450 W. State St.
Boise, ID 83720

(208) 334-4009

CHAPTER 5.4 SOLID WASTE MANAGEMENT

INTRODUCTION

The Idaho Department of Health and Welfare regulates solid waste disposal sites. The department, in cooperation with the District Health Departments, reviews and approves sites and facilities operated by counties, communities, other agencies and industries.

A. NAME OF PROGRAM

Solid Waste Disposal.

B. AUTHORIZING STATUTE

Health and Safety, I.C. Title 39, Chapter 1; Title 67, Chapter 52; Title 31, Chapter 44.

C. TITLE OF REGULATION

Idaho Solid Waste Management Regulations and Standards, Title 1, Chapter 6.

D. SUMMARY OF PROGRAM

1. APPLICABILITY

Solid waste management operations, including sanitary landfills, community incinerators, community compost plants, transfer stations, recycling and processing operations, collection and transportation systems, and storage of solid waste.

2. GENERAL REQUIREMENTS

All solid wastes and post-consumer products shall be managed to prevent public health hazards, public nuisances, or environmental pollution. Standards for each major type of operation are outlined in the regulations. Variances may be issued in unusual circumstances. Operations other than normal municipal sanitary landfills require conditional use permits. The operation must meet the approval of the local land-use planning and zoning agencies.

3. SUBMISSION REQUIREMENTS

Application form requires project description, plans and specifications, and maps. Signatures of approval from land owner, County Commissioners, and the District Health Department must be included.

4. PROCEDURES

- a. Application: Complete application needs to be submitted to the Department of Health and Welfare.
- b. Review/Inspection: The District Health Department and Department of Health and Welfare conduct a cooperative review. The Bureau of Water Quality, also in the Department of Health and Welfare, may be involved to determine potential ground water impacts.
- c. Public Notification/Hearing: If a zoning change is requested, a hearing will be held.
- d. Processing: Vary according to proposal and public controversy. Action on conditional use permit taken within 30 days of application receipt.
- e. Terms: Variable.

5. OPERATION REQUIREMENTS

The department establishes necessary terms and conditions to meet established goals. No open burning or dumping allowed.

6. FEES

None.

7. APPEAL PROCESS

Hearing before the Board of Health and Welfare may be requested in writing within 60 days of departmental notice.

E. ADMINISTERING AGENCY

Solid Waste Program Administrator
Division of Environment
Idaho Department of Health and Welfare
450 W. State Street
Boise, ID 83720

(208) 334-4079

CHAPTER 5.5 HAZARDOUS/TOXIC WASTE MANAGEMENT

INTRODUCTION

The Division of the Environment of the Department of Health and Welfare is currently seeking approval from EPA for a State hazardous materials program. At the present time the Hazardous Material Section of the Division of the Environment is carrying out inspections and reports regarding hazardous materials, using the Federal Resource Conservation and Recovery Act regulations.

The Radiation Control Section of the Department of Health and Welfare licenses by-products and sources of radioactive material, and regulates disposal of these materials. Approved radioactive waste disposal sites are limited to land owned by the State or the Federal government. Idaho participates as one of the Agreement States under the Federal Nuclear Regulatory Commission's State programs.

A. NAME OF PROGRAM

Radiation Control.

B. AUTHORIZING STATUTE

Radiation and Nuclear Material, I.C. 39-3001 through 39-3024.

C. TITLE OF REGULATION

Idaho Radiation Control Regulations.

D. SUMMARY OF REGULATION

1. APPLICABILITY

All by-products, sources, special nuclear materials or devices or equipment utilizing such material, or other radioactive materials occurring naturally or produced artificially, are covered. Certain non-ionizing radiation sources are also covered.

2. GENERAL REQUIREMENTS

A license is required to receive, use, transfer, own or acquire radioactive materials. General licenses, as well as specific licenses for individual persons or institutions are issued. Disposal of any radioactive material

must occur at an authorized disposal site, or by a method approved by the agency. Disposal to sanitary sewer systems, soil burial or incineration must meet minimum standards.

3. SUBMISSION REQUIREMENTS

Applications for licenses need to be submitted on Department of Health and Welfare Form 68565. Applications need to include a description of the radioactive materials, purposes of use, and detailed information on the designated radiation protection officers. Facilities and equipment, including radiation detection instruments, need to be detailed, along with information on the waste disposal methods.

Proposals for waste disposal practices need to describe the radioactive material and the manner and conditions of disposal. The application may also need to include relevant environmental information, such as topographical, geological, meteorological, and hydrological characteristics, along with ground water and surface water usage, location of potentially affected facilities, and precautionary measures.

4. PROCEDURES

- a. **Application:** Complete applications should be submitted to the Radiation Control Section.
- b. **Review/Inspection:** Proposed disposal practices may be reviewed by the Board of Water Resources to evaluate water quality impact.
- c. **Public Notification/Hearing:** Discretionary.
- d. **Processing:** Applicants receive preliminary decision on application within 3 weeks.

5. OPERATION REQUIREMENTS

Requirements vary according to nature of proposal.

6. FEES

None.

E. ADMINISTERING AGENCY

Radiation Control Manager
Idaho Board of Health and Welfare
450 W. State
Boise, ID 83720

(208) 334-4000

Federal Counterpart

Director
Office of State Programs
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

(301) 492-7767

CHAPTER 5.6 NOISE REGULATIONS

Idaho does not regulate noise.

SECTION 6.0
SOCIAL/ECOLOGICAL PRESERVATION

CHAPTER 6.I RARE AND ENDANGERED SPECIES

INTRODUCTION

The Fish and Game Commission has the authority to define by classification rare and endangered species, and has added caribou to the federally mandated list. In addition, the Idaho Department of Fish and Game provides for the protection of fish in the case of developments which impact natural stream courses or lakes. Explosives, electric currents, or substances which may be destructive to fish cannot be discharged into State waters. Small hydroelectric projects which are exempt under the Federal Public Utilities Regulatory Policy Act regulations are subject to State Fish and Game terms and conditions concerning fish and wildlife resources.

A. NAME OF PROGRAM

Fish Protection.

B. AUTHORIZING STATUTE

Fish and Game, I.C. 36-101 through 36-2118.

C. TITLE OF REGULATION

None.

D. SUMMARY OF REGULATION

1. APPLICABILITY/GENERAL REQUIREMENTS

Fish are protected by a regulation outlawing the introduction of destructive substances to waters. Sawmills, reduction works or quartz mills cannot operate on a natural stream course or lake without first constructing an approved dam for settling purposes. Obstructions in streams interrupting the passage of fish must install fishways approved by the director of the Department of Fish and Game. Water diversions must be screened to prevent fish from entering them, in accordance with specifications approved by the Director of the Department of Fish and Game.

2. PROCEDURES

a. Application: Applicants need to submit a letter, describing the

project's plans and specifications, to the regional supervisor in the area of the proposed action, or to the Director of the State Department of Fish and Game.

- b. Public Notification/Hearing: None.
- c. Processing: Review is usually accomplished in 2 weeks; permit issued shortly thereafter.
- d. Terms: Vary depending on proposed action.

3. OPERATION REQUIREMENTS

Requirements vary depending on the nature of the action.

4. FEES

None.

E. ADMINISTERING AGENCY

Idaho Department of Fish and Game
600 S. Walnut
P.O. Box 25
Boise, ID 83707

(208) 334-3700

Regional supervisors can be identified through this office.

CHAPTER 6.2 ARCHAEOLOGICAL AND HISTORICAL

INTRODUCTION

The Idaho State Historical Society is empowered to protect archaeological and historical sites and resources, and to issue permits for excavation on historic or archaeological sites located on public lands. The State Archaeologist participates in the review process established by the Federal Advisory Council on Historic Preservation and comments on any direct activity, or any activity funded and/or licensed by the Federal government, within the State.

A. NAME OF PROGRAM

Archaeological and Historical Sites.

B. AUTHORIZING STATUTE

State Government and State Affairs, I.C. 64-4114 through 67-4129.

C. TITLE OF REGULATION

None.

D. SUMMARY OF PROGRAM

1. APPLICABILITY

Proposals for excavations of sites of historical or archaeological significance on State land.

2. GENERAL REQUIREMENTS

Permit required prior to excavation.

3. SUBMISSION REQUIREMENTS

A letter describing the proposed project is required, with a legal description and map of the site.

4. PROCEDURES

- a. Application: Letter should be sent to the Idaho State Historical Society.

- b. Review/Investigation: The experience and professional training of the applicant is reviewed to determine his or her qualifications to conduct the proposed excavation in a scientific manner.
- c. Public Notification/Hearing: None required.
- d. Processing: Decisions are usually made in 2 to 3 weeks.

5. OPERATION REQUIREMENTS

Recommendations are made for the excavation.

6. FEES

None.

7. APPEAL PROCESS

None established.

E. ADMINISTERING AGENCY

State Archaeologist
Idaho State Historical Society
610 North Julia Davis Drive
Boise, ID 83702

(208) 334-3847

CHAPTER 6.3 WETLANDS

INTRODUCTION

The Department of Lands regulates encroachments upon, in, or above the beds or waters of navigable lakes of the State. The purpose of this regulation is to balance environmental, property, navigational, and recreational benefits with the economic benefits.

A. NAME OF PROGRAM

Encroachments on Navigable Lakes.

B. AUTHORIZING STATUTE

Public Lands, I.C. Title 58, Section 142 et seq.

C. TITLE OF REGULATIONS

Rules for the Regulation of Beds, Waters and Airspace over Navigable Lakes in the State of Idaho.

D. SUMMARY OF REGULATION

1. APPLICABILITY

Encroachments on navigable lakes or reservoirs.

2. GENERAL REQUIREMENTS

A permit is required for encroachments on navigable lakes or reservoirs. Encroachments must not interfere with navigation or adjacent properties. To receive a permit, an encroachment proposal must be judged as having an economic or navigational necessity which outweighs its potential adverse effect on property, fish and wildlife, aquatic life, recreation, aesthetic beauty and water quality.

3. SUBMISSION REQUIREMENTS

Applications must be either on Department of Lands Form 1750 or Water Resources Division Form 3804, showing name, address, description of property adjacent to proposed encroachment, and plan and profile drawings of the proposal.

4. PROCEDURES

- a. Applications for private navigational encroachments may be submitted to field offices for review and permit.

Applications for commercial navigational encroachments and non-navigational encroachments must be submitted to the director's office.

- b. Review/Investigation: Private encroachments are reviewed by the field office. Commercial and non-navigational encroachments are submitted to interested State and local agencies as well as the Department of Lands' field office for review.
- c. Public Notification/Hearing: Commercial and non-navigational encroachments are advertised for 2 consecutive weeks. Hearings are optional, unless requested in writing by an interested party.
- d. Processing: Private encroachment permits require 10 days for issuance. Commercial and non-navigational permits usually can be issued in 30 days; abnormal or contested applications involving hearings require a minimum of 90 days for issuance.
- e. Terms: Permit continues as long as permit conditions are satisfied.

5. OPERATION REQUIREMENTS

Permit conditions can be stipulated by the Department.

6. FEES

Applications for private navigational encroachments are processed at no charge. All other applications must be accompanied by a \$ 25.00 permit fee and a \$ 25.00 advertising deposit (the unused portion of which is refunded).

7. APPEAL PROCESS

Reconsideration by the director can be requested within 20 days of a decision. The director has 30 days to respond. From the date of the director's decision, the applicant has 30 days to appeal to the district court.

E. ADMINISTERING AGENCY

Chief
Bureau of Navigable Waters
Idaho Department of Lands
Statehouse, Room 121
Boise, ID 83720

(208) 334-3567

CHAPTER 6.4 COASTAL ZONE REGULATIONS

Idaho does not regulate coastal zones.

SECTION 7.0
LOCAL REGULATORY POLICY

CHAPTER 7.1 LOCAL GOVERNMENT LAND USE
AND NATURAL RESOURCE CONTROL ENABLING LAWS

INTRODUCTION

The Local Planning Act of 1975 delegates land use planning authority to cities and counties (State Government and State Affairs, I.C. 67-6501 through 67-6532). The act requires the establishment of a planning and zoning commission to exercise this authority, and to conduct a comprehensive planning process. Jurisdictions are authorized to establish planned unit developments, standards, permits, and variances, and are required to adopt zoning and subdivision ordinances. The act outlines a permit-granting process, which requires that permit applications be first submitted to the zoning, or planning and zoning, commission for its recommendation or decision. Permit denials require specification of ordinances and standards used in evaluating the application, reasons for denial, and the actions, if any, the applicant could take to obtain a permit. Hearings on a permit can be held if requested by 20 affected persons.

The act stipulates that a board of county commissioners cannot enact any ordinance or resolution which would deprive any owner of full and complete use of agricultural land for production of any agricultural project.

The State Division of Economic Resources and Community Affairs has authority to administer and coordinate projects relating to community affairs planning. Upon request from a jurisdiction or agency, the Division is empowered to provide technical assistance to strengthen local planning responsibility and capability (I.C. 67-4703 through 67-4709).

The following county seats should be contacted for information on specific county land use regulations:

Boise, Ada County

Pocatello, Bannock County

St. Maries, Benewah County

Hailey, Blaine County

Council, Adams County

Paris, Bear Lake County

Blackfoot, Bingham County

Idaho City, Boise County

Sandpoint, Bonner County
Bonners Ferry, Boundary County
Fairfield, Camas County
Soda Springs, Caribou County
Preston, Franklin County
Emmett, Gem County
Grangeville, Idaho County
Jerome, Jerome County
Moscow, Latah County
Nezperce, Lewis County
Rexburg, Madison County
Lewiston, Nezperce County
Murphy, Owyhee County
American Falls, Power County
Driggs, Teton County
Cascade, Valley County

Idaho Falls, Bonneville County
Arco, Butte County
Caldwell, Canyon County
Burley, Cassia County
St. Anthony, Fremont County
Gooding, Gooding County
Rigby, Jefferson County
Coeur d'Alene, Kootenai County
Salmon, Lemhi County
Shoshone, Lincoln County
Rupert, Minidoka County
Malad, Oneida County
Payette, Payette County
Wallace, Shoshone County
Twin Falls, Twin Falls County
Weiser, Washington County